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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,172	09/22/2003	Richard Brennan	084528-000000US	1694
20350	7590	09/01/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			JIANG, CHEN WEN	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 09/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/669,172	BRENNAN, RICHARD	
	Examiner	Art Unit	
	Chen-Wen Jiang	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 8, 10, 11, 13-16, 18-27, 30-42 and 46-61 is/are rejected.
- 7) ☒ Claim(s) 4, 7, 9, 12, 17, 28, 29 and 43-45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040419</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8,22-24 and 36-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 8 recites the limitation "the barrier" in line 2. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 22 recites the limitation "the bottom opening" in line 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 36 recites the limitation "the opening" in line 2. There is insufficient antecedent basis for this limitation in the claim.
6. The following rejections are based on the best understanding of the claimed limitations.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for

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patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1,2,3,6,10,11,13,14,16,18,19,21,25,26,27,30,31,33,35,39,40,41,42,47,48,49, 50,51,53,55 and 61 are rejected under 35 U.S.C. 102(a) or 102(e) as being anticipated by Ogura et al. (JP 2001311576).

Ogura et al. disclose a cold insulating chamber. Referring to Fig.8, a cooler box 3 comprises a hermetically closable cooling chamber formed inside and insulates heat and a cooling device 2 cools the interior of the cooling chamber. The body member 3 is composed of a bottom portion 3a having the shape of a bottomed cylinder and two ring-shaped frame members 3b and 3c that are fitted to the bottom portion 3a by being piled on top of it. The frame members 3b and 3c are removable, and thus, by piling or removing them as required, it is possible to vary the volume of the cooling chamber 1a. The lid member 4 is supported on a frame member 19, to which the lid member 4 is pivotably fitted with a hinge mechanism (not shown). The member 3b,3c and 19 are considered as a body member.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 5,20,34,52,54 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. (JP 2001311576) in view of Grusin (U.S. Patent Number 5,040,681) or Sagol (U.S. Patent Number 6,371,320) or Thomas (AU-A-70275/96).

Ogura et al. disclose the invention substantially as claimed. However, Ogura et al. do not disclose hinged couple between body and chest. Grusin, Sagol and Thomas disclose hinged connection between containers in the analogous art for stack connection. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Ogura et al. with a hinged couple in view of Grusin, Sagol or Thomas so as to connect elements.

11. Claims 15,32 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. (JP 2001311576).

Ogura et al. disclose a cooling device as shown in Fig.8. Referring to Fig.9, the cooling device 2 is housed inside a space 20 formed in a sidewall of the body member 3. The cold generated by the cooling device 2 conducts through the cooling element 6 to the air inside a duct 21 formed in the side wall of the body member 3, and this air is discharged into the cooling chamber 1a out of the duct 21 through one end thereof by a cooling fan (air circulating means) 22 provided inside the duct 21. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Fig.8 with an air circulator of Fig.9 so as to circulate air.

12. Claims 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. (JP 2001311576).

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In regard to claim 56, the applicant should note that the selection of known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

In regard to claim 57, it would have been obvious to one having ordinary skill in the art at the time the invention was made to integrally make one piece of inner case, since it has been held to be within the general skill of worker in the art to make plural parts unitary as a matter of obvious engineering choice. In re Larson, 144 USPQ 347 (CCPA 1965); In re Lockart, 90 USPQ 214 (CCPA 1951).

In regard to claim 58, the applicant should also note that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

In regard to claim 59, the device is capable to have a basket.

Allowable Subject Matter

13. Claims 4,7,9,12,17,28,29,43,44 and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 8,22-24 and 36-38 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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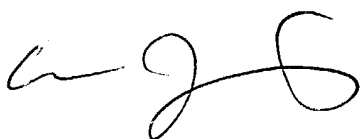
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (703) 308-0275.

The examiner can normally be reached on Tuesday-Friday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang
Primary Examiner

A handwritten signature in black ink, appearing to be 'C. Jiang', written in a cursive style.